

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARIO MICHAEL MAYORGA,

Petitioner,

v.

CHRISTIAN PFEIFFER,

Respondent.

No. 2:22-cv-1940 WBS KJN P

FINDINGS AND RECOMMENDATIONS

Petitioner is a state prisoner proceeding pro se. On August 25, 2023, petitioner's habeas application was dismissed, and petitioner was granted thirty days' leave to file an amended petition raising only exhausted claims one through four.¹ The thirty-day period has now expired, and petitioner has not responded to the court's order.

Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice. See Local Rule 110; Fed. R. Civ. P. 41(b).

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¹ As noted in prior findings and recommendations, a federal district court may not entertain a petition for habeas corpus unless the petitioner has exhausted state remedies with respect to each of the claims raised. (ECF No. 19 at 4) (citing Rose v. Lundy, 455 U.S. 509 (1982).) The magistrate judge found petitioner's application for a writ of habeas corpus is a mixed petition containing both exhausted and unexhausted claims and therefore respondent's motion to dismiss the petition must be granted. (ECF Nos. 19.) On August 25, 2023, the findings and recommendations were adopted in full. (ECF No. 20.)

1 These findings and recommendations are submitted to the United States District Judge
2 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
3 after being served with these findings and recommendations, petitioner may file written
4 objections with the court. The document should be captioned “Objections to Magistrate Judge’s
5 Findings and Recommendations.” Petitioner is advised that failure to file objections within the
6 specified time may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951
7 F.2d 1153 (9th Cir. 1991).

8 Dated: February 29, 2024



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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